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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 160120042-6042-01]

RIN 0648-BF69

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Groundfish Fishery; Recreational Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to modify recreational fishery management measures for Gulf of Maine cod and haddock, including daily bag limits, size limits, and seasonal possession restrictions. This action is necessary to increase recreational fishing opportunities and catch of cod and haddock in a manner consistent with anticipated catch limit increases. The intended effect of this action is to ensure the recreational fishery can achieve but not exceed its catch limits.

DATES: Comments must be received by *[insert date 15 days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2016-0011, by either of the following methods:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal.

1. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0011
2. Click the “Comment Now!” icon, complete the required fields, and
3. Enter or attach your comments.

- OR -

Mail: Submit written comments to: John K. Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, “Comments on groundfish recreational fishing management measures.”

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

In support of the proposed action, NMFS prepared a supplemental environmental assessment (EA) to Framework Adjustment 55 to the Northeast Multispecies Fishery Management Plan. The Framework 55 EA was prepared by the New England Fishery Management Council. Copies of the Framework 55 EA and supplemental EA are available from: John K. Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. The Framework 55 EA and supplement are also

accessible via the Internet at:

<http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/multispecies/>.

FOR FURTHER INFORMATION CONTACT: William Whitmore, Fishery Policy Analyst,
phone: 978-281-9182; e-mail: William.Whitmore@noaa.gov.

SUPPLEMENTARY INFORMATION:

Proposed Modifications to Recreational Management Measures

We are proposing to increase recreational fishing opportunities for Gulf of Maine (GOM) cod and haddock starting May 1, 2016. The proposed changes would allow anglers to retain one cod per day during the months of August and September and keep up to 15 haddock per day for most of the fishing year. Table 1, below, summarizes the proposed measures compared to the fishing year 2015 measures.

Table 1. Proposed Changes to GOM Cod and Haddock Recreational Management Measures

Stock	Current Measures			Proposed Measures		
	Per Day Possession Limit (fish per angler)	Minimum Fish Size	Season When Possession is Permitted	Per Day Possession Limit (fish per angler)	Minimum Fish Size	Season When Possession is Permitted
GOM Cod*	Possession Prohibited Year-Round			1	24 inches (61.0 cm)	August 1 – September 30
GOM Haddock	3	17 inches (43.2 cm)	May 1 – August 31, 2015 and November 1 – February 29, 2016	15	17 inches (43.2 cm)	Year Round Except April 15-30

*The recreational cod prohibition is proposed to be rescinded in Framework 55. This action would establish the actual recreational fishing effort regulations if the prohibition is removed.

Background

Framework Adjustment 55 Proposes to Increase Recreational Catch Limits

The Northeast Fishery Science Center (Center) conducted operational stock assessments for all 20 groundfish stocks in September 2015. The assessment concluded that the GOM

haddock stock biomass continues to increase, and as a result, a substantial catch-limit increase (150 percent) is anticipated for the 2016 fishing year. The assessment also concluded that, although GOM cod remains overfished and subject to overfishing, biomass has increased slightly. A 30-percent increase to the catch limit for GOM cod is expected for 2016.

These catch limit increases will be proposed in a separate rulemaking for Framework Adjustment 55 to the Northeast Multispecies Fishery Management Plan (FMP) which is expected to be published in the *Federal Register* in the next few weeks. Final approval of the recreational measures proposed in this action is contingent upon approval of the catch limit increases proposed in Framework 55. Framework 55 also proposes to remove the GOM cod retention prohibition in the recreational fishery. If catch limits or management measures other than those to be proposed in Framework 55 rulemaking are implemented, we will adjust recreational measures as necessary to ensure that catch from the recreational fishery will remain within the final catch limits implemented for fishing year 2016.

A peer-reviewed bioeconomic model, developed by the Center, was used to estimate 2016 recreational GOM cod and haddock mortality under various combinations of minimum sizes, possession limits, and closed seasons. Catch data and model projections suggest that the recreational fleet is not expected to exceed its fishing year 2015 catch limits for GOM cod or haddock. Based on the Framework 55 catch limits recommended by the Council for the 2016 fishing year, analyses indicate that recreational catch for both GOM cod and haddock could be increased (Table 2).

Table 2. Projected Fishing Year 2015 and 2016 Recreational Catch Information for GOM Cod and Haddock.

Stock	Fishing Year 2015			Fishing Year 2016	
	Catch Limit (mt)	Projected Catch (mt)	Percent of Catch Limit Caught	Catch Limit (mt)*	Percent of Catch Limit Increase from 2015
GOM Cod	121	69	57	157	30
GOM Haddock	372	301	81	926	149

*NMFS will propose fishing year 2016 recreational catch limits in a separate Framework 55 rulemaking.

How Management Alternatives and the Proposed Measures Were Developed

Each year, pursuant to the regulations within the FMP, we may consult with the New England Fishery Management Council and modify recreational management measures to help the fishery achieve optimum yield while ensuring that catch limits are not exceeded. The Center's bioeconomic model results were presented to the Council, its Recreational Advisory Panel (RAP), and its Groundfish Oversight Committee in November and December 2015. These groups concurred that fishing effort on GOM haddock should be increased and suggested that bag limits increase from 3 to 15 fish per angler per day. The Council, RAP, and Committee also recommended that the fishing season for GOM haddock should be substantially extended.

The Council, RAP, and Committee agreed that the GOM cod recreational retention prohibition should be removed. However, they debated when anglers should be permitted to retain GOM cod (Table 3). The Marine Recreational Information Program (MRIP) gathers fishing effort and catch data in two month "waves" (for example, wave 1 is January-February; wave 2 is March-April). Since MRIP data is provided in waves, the bioeconomic model used to develop recreational management measures estimates effort and catch by 2 month waves as well. As a result, seasonal closures and openings are typically implemented in line with the MRIP waves.

Additional information and analyses on these alternatives is included in a supplemental Environmental Assessment (see **ADDRESSES**).

Table 3. Estimated Fishing Year 2016 Mortality of GOM Cod and Haddock by Management Alternative.*

Alternative	Haddock					Cod					Angler Trips
	Bag Limit	Size Limit (in/cm)	Open Season	Total Mortality (mt)	Total Mortality as Percent of Quota	Bag Limit	Size Limit (in/cm)	Open Season	Total Mortality (mt)	Total Mortality as Percent of Quota	
Current Recreational Measures	3	17/43.2	Waves 3, 4, 6, 1	405	44%	0	n/a	Closed	66	42%	117,139
2016 RAP Recommendation	15	17/43.2	All year, except April 15-30	709	76%	1	24/61.0	Jul-Aug	132	84%	168,125
2016 Committee Recommendation	15	17/43.2	All year, except April 15-30	707	76%	1	24/61.0	Sept-Oct	114	73%	167,549
2016 Council Recommendation	15	17/43.2	All year, except April 15-30	707-709	76%	1	24/61.0	Aug-Sept	114-132	73-84%	167,549 - 168,125

* The model cannot split a wave of data; the numbers provided under alternative 4 are a range between alternatives 2 and 3

Council recommended Framework 55 fishing year 2016 GOM haddock recreational catch limit = 928 mt

Council recommended Framework fishing year 2016 GOM cod recreational catch limit = 157 mt

There was general agreement among the Council, RAP, and Committee that the GOM cod daily bag limit could not exceed more than 1 fish per person per day. The RAP debated whether anglers should be able to retain that one cod during the months of July and August (wave 4) or September and October (wave 5). According to the model, opening wave 4 would result in slightly more trips being taken compared to opening wave 5; however, both options are expected to keep catch within the proposed limits. Most RAP members initially supported opening wave 5 because it would result in less cod being caught, which may provide additional conservation benefits. The RAP also discussed that opening wave 5 would extend the primary summer fishing season further into the fall, potentially creating additional fishing opportunities that would help charter and party boat businesses. However, opening wave 5 would not benefit private anglers as much because fewer private anglers fish in the fall compared to the summer. Because allowing cod retention during July and August, when most anglers are fishing, would provide the greatest overall benefits, the RAP endorsed opening wave 4.

The Groundfish Committee considered the RAP's recommendation and evaluated the trade-offs between opening waves 4 or 5. The Committee recommended opening wave 5, citing a preference to extend the recreational fishing season further into the fall.

The Council proposed a compromise, recommending that anglers should be able to retain one cod during the months of August and September (the second month of wave 4 and the first month of wave 5). We propose to adopt the Council's recommendations in this action.

We intend to modify our bioeconomic model so we can project effort and catch at a monthly level, but there is some concern that a revised model may not work if there is insufficient data at the monthly level. Since MRIP effort and catch data is reported by 2-month waves, reducing the length of time from two months to one would reduce the amount of samples

that would be incorporated into the model, potentially increasing variability and uncertainty in the model, which could cause the model to fail. We believe this to be unlikely, but still a possibility.

The increased flexibility from the proposed measure appears to outweigh the potential data trade-off. There is a substantial “buffer” between the catch forecasted by the model and the proposed catch limits, and we will be modifying the model in the future to reduce management uncertainty where possible. We believe that the Council’s suggestion is appropriate and are therefore proposing it for this action.

We are providing a 15-day comment period for this rule. A 15-day comment period, coupled with extensive public comment periods at three different Council-related meetings during the development of this action, provides sufficient opportunity for public input on the proposed measures. The Council did not recommend management measures to NMFS until December 2015; as a result were unable to develop a proposed rule any sooner than this. Recreational fishing businesses and fishermen are currently scheduling fishing trips and these proposed measures will provide them with additional information to assist their planning efforts. Since these measures increase fishing opportunities, announcing these measures quickly will provide additional support to recreational-fishing businesses.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has made a determination that this proposed rule is consistent with the Northeast Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

As explained above, the purpose of this action is to modify recreational fishing management measures to increase recreational fishing opportunities, effort, and catch consistent with the catch limit increases anticipated in Framework 55. This action is needed to help the recreational fishery achieve its optimum yield without overfishing.

The regulated entities most likely to be affected by this action are private anglers, and charter/party vessel fishing corporations. Other than private anglers, which are not businesses, all charter/party fishing businesses are considered small businesses per the SBA guidelines because they all have less than \$7.5 million in annual receipts. As a result, the impacts of these measures are not considered to be disproportional.

All of the measures proposed in this action are expected to have a positive economic impact on participants as new regulations would allow for additional fishing opportunities. Additional fishing opportunities would generate additional effort (trips) and result in more revenue for recreational fishing businesses. This rule would not impose significant negative economic impacts.

Since no small entities would be placed at a competitive disadvantage to large entities, and the regulations would not reduce the profit for any small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

This action has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: February 25, 2016

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.89, revise paragraphs (b)(1), (c)(1)(ii), (c)(2), and (c)(8) to read as follows:

§ 648.89 Recreational and charter/party vessel restrictions.

* * * * *

(b) Recreational minimum fish sizes—(1) Minimum fish sizes. Unless further restricted under this section, persons aboard charter/party vessel permitted under this part and not fishing under the NE multispecies DAS program or under the restrictions and conditions of an approved sector operations plan, and private recreational fishing vessels in or possessing fish from the

EEZ, may not possess fish smaller than the minimum fish sizes, measured in total length, as follows:

Species		Minimum Size	
		Inches	cm
Cod	Inside GOM Regulated Mesh Area ¹	24	61.0
	Outside GOM Regulated Mesh Area ¹	22	55.9
Haddock	Inside GOM Regulated Mesh Area	17	43.2
	Outside GOM Regulated Mesh Area	18	45.7
Pollock		19	48.3
Witch Flounder (gray sole)		14	35.6
Yellowtail Flounder		13	33.0
American Plaice (dab)		14	35.6
Atlantic Halibut		41	104.1
Winter Flounder (blackback)		12	30.5
Redfish		9	22.9

¹ GOM Regulated Mesh Area specified in § 648.80(a)

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(c) * * *

(1) * * *

(ii) Each person on a private recreational fishing vessel, fishing from August 1 through September 30, may possess no more than one cod per day in, or harvested from, the EEZ when fishing in the GOM Regulated Mesh Area specified in § 648.80(a)(1); with the exception that each person on a private recreational vessel in possession of cod caught outside the GOM Regulated Mesh Area specified in § 648.80(a)(1) may transit this area with more than one such cod per person up to the possession limit specified at § 648.89(c)(1)(i), provided all bait and hooks are removed from fishing rods and any cod on board has been gutted and stored.

* * * * *

(2) Charter/party vessels (i) Each person on a charter/party fishing vessel permitted under this part and not fishing under a NE multispecies DAS program or on a sector trip may possess unlimited cod when fishing outside of the GOM Regulated Mesh Area specified in §648.80(a)(1).

(ii) Each person on a charter/party fishing vessel permitted under this part, fishing from August 1 through September 30, and not fishing under the NE multispecies DAS program or on a sector trip, may possess no more than one cod per day in the GOM Regulated Mesh Area specified in §648.80(a)(1); with the exception that each person on a charter/party vessel in possession of cod caught outside the GOM Regulated Mesh Area specified in §648.80(a)(1) may transit this area with more than one such cod up to any possession limit under §648.89(c)(2)(ii), provided all bait and hooks are removed from fishing rods and any cod on board has been gutted and stored.

(iii) For purposes of counting fish, fillets will be converted to whole fish at the place of landing by dividing the number of fillets by two. If fish are filleted into a single (butterfly) fillet, such fillet shall be deemed to be from one whole fish.

(iv) Cod harvested by charter/party vessels with more than one person aboard may be pooled in one or more containers. Compliance with the possession limits will be determined by dividing the number of fish on board by the number of persons on board. If there is a violation of the possession limits on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner or operator of the vessel.

(v) Cod must be stored so as to be readily available for inspection.

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(8) *Haddock*. (i) Each person on a private recreational vessel may possess unlimited haddock in, or harvested from, the EEZ when fishing outside of the GOM Regulated Mesh Area specified in §648.80(a)(1).

(ii) Each person on a private recreational fishing vessel, fishing from May 1 through April 14, may possess no more than 15 haddock per day in, or harvested from, the EEZ when fishing in the GOM Regulated Mesh Area specified in § 648.80(a)(1); with the exception that each person on a private recreational vessel in possession of haddock caught outside the GOM Regulated Mesh Area specified in §648.80(a)(1) may transit this area with more than 15 such haddock per person up to the possession limit specified at §648.89(c)(8)(i), provided all bait and hooks are removed from fishing rods and any haddock on board has been gutted and stored.

(iii) Each person on a charter/party fishing vessel permitted under this part and not fishing under a NE multispecies DAS program or on a sector trip may possess unlimited haddock when fishing outside of the GOM Regulated Mesh Area specified in §648.80(a)(1).

(iv) Each person on a charter/party fishing vessel permitted under this part, fishing from May 1 through April 14, and not fishing under the NE multispecies DAS program or on a sector trip, may possess no more than 15 haddock per day in the GOM Regulated Mesh Area specified in §648.80(a)(1); with the exception that each person on a charter/party vessel in possession of haddock caught outside the GOM Regulated Mesh Area specified in §648.80(a)(1) may transit this area with more than fifteen such haddock up to any possession limit under §648.89(c)(8)(iii), provided all bait and hooks are removed from fishing rods and any cod on board has been gutted and stored.

(v) For purposes of counting fish, fillets will be converted to whole fish at the place of landing by dividing the number of fillets by two. If fish are filleted into a single (butterfly) fillet, such fillet shall be deemed to be from one whole fish.

(vi) Haddock harvested in or from the EEZ by private recreational fishing boats or charter or party boats with more than one person aboard may be pooled in one or more containers. Compliance with the possession limit will be determined by dividing the number of fish on board by the number of persons on board. If there is a violation of the possession limit on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner or operator of the vessel.

(vii) Haddock must be stored so as to be readily available for inspection.

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